REQUEST FOR COUNCIL ACTION CERTIFICATE NUMBER								
		SAN DIE			(FOR AUDITOR)	(FOR AUDITOR'S USE ONLY)		
				pending FM appro	pending FM approval and 292			
TO:	OM (ORIG	INATING E	EPARTMENT): DATE:				
CITY COUNCIL	k Managen			11/21/2008				
SUBJECT: Settlement of the Property Damage claim of John Trunkey and Greg Bishop, Risk Management file								
No. LP07-0705-1147.								
PRIMARY CONTACT	(NAME, PH	ONE):	SECONDARY CONTACT (NAME, PHONE):					
James Coldren,619-23			Ray Palmucci, 619-236-7725					
COMPLETE FOR ACCOUNTING PURPOSES								
FUND	41500							
DEPT.								
ORGANIZATION	GANIZATION 503							
OBJECT ACCOUNT	4824							
JOB ORDER	050301							
C.I.P. NUMBER								
AMOUNT	\$835,000.00	0.00	0.00	. 0.00	0.00	0.00		
+) () () () () () () () () () (
FUND	,							
DEPT.						,		
ORGANIZATION								
OBJECT ACCOUNT								
JOB ORDER		-						
C.I.P. NUMBER								
AMOUNT	0.00	0.00	0.00	0.00	0.00	0.00		
COST SUMMARY (IF	APPLICABL	E): \$ 162,4	475.83 Pre	viously Paid				
\$ 835,000.00 Outstan		, , ,		•				
\$ 997,475.83 Total Se								
, , , , , , , , , , , , , , , , , , ,								
ROUTING AND APPROVALS								
		APPI	ROVING	APPROVAL	DATE			
CONTRIBUTORS/REVIEWERS:		AUTHORITY		SIGNATURE	SIGNED			
Liaison Office	Liaison Office		ORIG DEF	T.	Bych, Greg	11/21/2008		
Water Department	ater Department		CFO		Lewis, Mary	1/5/2009		
Financial Management			DEPUTY (CHIEF	Lewis, Mary	1/5/2009		
Comptroller			COO					
* "			CITY ATT	ORNEY	Palmucci, Ray	12/1/2008		
		COUNCIL	-	Halsey, Keely 1/7/2009				
PRESIDENTS OFFICE								
PREPARATION OF:	⊠ RESOI	LUTIONS	ORDINANCE(S) AGREEMENT(S)			DEED(S)		
1. Authorizing the	Mayor to pay	the sum of	\$ 835,000.0	0 in settlement	of each and every clain	m against the		
City, its agents and employees, arising from the Property Damage claim of John Trunkey and Greg Bishop as a								
result of a water main break.								
2. Authorizing the City Auditor and Comptroller to issue one check in the amount of \$550,000.00 in the								
current fiscal year and one check in the amount of \$285,000.00 in fiscal year 2010 payable to John Trunkey and								

Greg Bishop and their attorney Bry 3. Authorizing the expenditure	van M. Garrie. e of \$835,000.00 from the Water Department fund 41500.
STAFF RECOMMENDATIONS: Approve the resolution.	
	TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)
COUNCIL DISTRICT(S):	District 1
COMMUNITY AREA(S):	La Jolla
ENVIRONMENTAL IMPACT:	This activity is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section §15060(c)(3).
CITY CLERK INSTRUCTIONS:	Please send executed copies to James Coldren, MS 51B and Ray Palmucci, MS 59.

COUNCIL ACTION EXECUTIVE SUMMARY SHEET CITY OF SAN DIEGO

DATE: 11/21/2008

ORIGINATING DEPARTMENT: Risk Management

SUBJECT: Settlement of the Property Damage claim of John Trunkey and Greg Bishop, Risk

Management file No. LP07-0705-1147. COUNCIL DISTRICT(S): District 1

CONTACT/PHONE NUMBER: James Coldren/619-236-5598

REQUESTED ACTION:

Authorizing the Mayor to pay the sum of \$835,000.00 in settlement of each and every claim against the City, its agents and employees, arising from the Property Damage Claim of John Trunkey and Greg Bishop, as a result of flooding to their hill side home in La Jolla due to a break on a Cast Iron water main.

STAFF RECOMMENDATION:

Approve the resolution.

EXECUTIVE SUMMARY OF ITEM BACKGROUND: The proposed settlement would resolve all claims brought by John Trunkey and Greg Bishop for flood damage to their house, including allegations of structural instability, expenses for temporary substitute residence during repairs and contents damage.

FISCAL CONSIDERATIONS: Settlement will be paid from the Water Utility fund.

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE):N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION:On November 18, 2008 the City Council voted in Closed Session on Item CS-4, John Trunkey, et al. v. City of San Diego, Claim No. LP07 0705 1147, to approve a settlement agreement. The agreement requires the City to pay \$835,000 to resolve the claim for a total settlement of \$977,475.83. The motion was made by Council President Peters and seconded by Councilmember Atkins. The motion passed unanimously 8-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:N/A

Bych, Greg Originating Department

<u>Lewis, Mary</u> Deputy Chief/Chief Operating Officer 000099

The City of San Diego CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING

AC	2900494
DEPT.	
NO ·	760

2900494

Amount:			· · · · · · · · · · · · · · · · · · ·				Fund:				······
Purpose:										-	
•	-										· · · · · · · · · · · · · · · · · · ·
	•				·····	D					
Date:		By:								R'S DEPARTMENT	
					ACC	OUNTING DATA	,	,			
	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/	EQUIP	FACILITY	' AMOUNT
-								-			
								·			
			<u> </u>								
				1	<u> </u>	1,	 -	TC	TAL A	MOUNT	
he hereto San Diego ufficient of said con rom whic inticipated	o at o; a moi intra in th th d to	tached restand I do he neys have act are act he same act come into	solution, ca reby furthed been app ually in the are to be d	an be incuer certify, in certify, in certify, in certify and the certification of the certifi	irred without n conformity for the purpo r, or are antid I that the sa	t the violation with the requese of said contained to contain money not appropriate	n of any o quirements ontract, the me into the ow actually tion, are of	f the post of the sat suff the Treat of the fire	rovision Chart iclent sury, the Trea	ons of the er of the moneys to the cre sury, tog	preement authorized be Charter of the City of City of San Diego, that to meet the obligation with the money ed.
he hereto San Diego sufficient of said con rom whice inticipated Not to Exc	o at o; a moi intra in th th d to	tached resind I do he neys have act are act he same a come into	solution, ca reby furthe been app ually in the are to be do the Treas	an be incuer certify, in copriated a Treasury Irawn, and sury, to the	rred without n conformity for the purpo , or are antio I that the sa e credit of sa	t the violation with the requese of said contained to contain money not appropriate	n of any o uirements ontract, the me into the ow actually	f the post of the sat suff the Treat of the fire	rovision Chart iclent sury, the Trea	ons of the er of the moneys to the cre sury, tog	e Charter of the City of San Diego, the to meet the obligation of the appropriation ether with the money
he hereto San Diego sufficient of said com rom whic	o at o; a moi intra in th d to cee	tached resind I do he neys have act are act he same a come into	solution, careby further been appually in the are to be do the Treas key and G	an be incured continued in the continued	rred without n conformity for the purpo , or are antio d that the sa e credit of sa	t the violation with the requese of said contained to contain money not appropriate \$83	n of any on uirements contract, the me into the own actually tion, are of \$5,000.00	f the post of the part suffice Trea y in the therwise	rovision Charticient sury, for Trea e une	ons of the er of the moneys to the cre sury, tog ncumber	e Charter of the City of San Diego, the to meet the obligation of the appropriation ether with the money
he hereto San Diego sufficient of said con rom which inticipated Not to Excellendor:	o at o; a moi intra in th d to cee	tached resind I do he neys have act are act he same a come into d: John Trun Settlemen	solution, careby further been appually in the are to be do the Treas key and G	an be incured a Treasury frawn, and sury, to the reg Bishop operty dan	orred without n conformity for the purpo , or are antio d that the sa e credit of sa	t the violation with the requese of said content to con	n of any on uirements contract, the me into the own actually tion, are of a 5,000,00 tey and Grand Gra	f the p of the nat suff e Trea y in the therwis eg Bisl	rovision Chart icient sury, for Trea e une	er of the er of the moneys to the cresury, tog	e Charter of the City of San Diego, the to meet the obligation edit of the appropriation ether with the money ed.
he hereto San Diego sufficient of said con rom whice Inticipated Not to Exce Vendor:	o at o; a moi intra in th d to cee	tached resind I do he neys have act are act he same a come into d: John Trun Settlemen	solution, careby further been appually in the are to be do the Treas key and G	an be incured a Treasury frawn, and sury, to the reg Bishop operty dan	orred without n conformity for the purpo , or are antic d that the sa e credit of sa	t the violation with the requese of said content to con	n of any on uirements contract, the me into the own actually tion, are of a 5,000,00 tey and Grand Gra	f the p of the nat suff e Trea y in the therwis eg Bisl	rovision Chart icient sury, for Trea e une	er of the er of the moneys to the cresury, tog	e Charter of the City of San Diego, the comment the obligation of the appropriation ether with the money ed.
he hereto San Diego sufficient of said con rom whice inticipated Not to Excellendor: Purpose:	o at o; a more and a more a more and a more	tached resind I do he neys have act are act he same a come into d: John Trun Settlemen 0705-1147	solution, careby further been appually in the are to be do the Treas key and Got tof the produced by the produ	an be incurer certify, in ropriated a Treasury frawn, and sury, to the reg Bishop operty danger 31, 2008	orred without n conformity for the purpo , or are antid that the sa e credit of sa	t the violation with the request of said counting DATA	n of any on our or	f the p of the nat suff e Trea y in the therwis eg Bisl	rovision Charticient sury, 1 a Trea e une	ons of the er of the moneys to the cresury, tog neumbers this Mana	e Charter of the City of San Diego, the comment the obligation and to the appropriation of th
he hereto San Diego sufficient of said con rom whice inticipated Not to Excellendor: Purpose:	o at o; a more and a more a more and a more	tached resind I do he neys have act are act he same a come into d: John Trun Settlemen	solution, careby further been appually in the are to be do the Treas key and G	an be incured a Treasury frawn, and sury, to the reg Bishop operty dan	orred without n conformity for the purpo , or are antic d that the sa e credit of sa	t the violation with the requese of said content to con	n of any on uirements contract, the me into the own actually tion, are of the contract of the	f the p of the nat suff e Trea y in the therwis eg Bisl	rovision Chart icient sury, for Trea e une	ons of the er of the moneys to the cresury, tog neumbers this Mana	e Charter of the City of San Diego, the to meet the obligation edit of the appropriation ether with the money ed.
he hereto San Diego sufficient of said con rom whice inticipated Not to Excellendor: Purpose:	o attoo; a moontrach til d to	tached resind I do he neys have act are act he same a come into d: John Trun Settlemen 0705-1147	solution, careby further been appually in the are to be do the Treas key and G	an be incured a Treasury frawn, and sury, to the performance of the sury of th	orred without n conformity for the purpo, or are antid that the sale credit of sale credit of sale calling of the conformation	t the violation with the request of said conting the counting data. If John Trunk By: COUNTING DATA JOB ORDER	n of any on our or	f the p of the nat suff e Trea y in the therwis eg Bisl	rovision Charticient sury, 1 a Trea e une	ons of the er of the moneys to the cresury, tog neumbers this Mana	e Charter of the City City of San Diego, the to meet the obligation edit of the appropriation ether with the money ed. agement file no. LP07
he hereto San Diego sufficient of said con rom whice inticipated Not to Excellendor: Purpose:	o attoo; a moontrach til d to	tached resind I do he neys have act are act he same a come into d: John Trun Settlemen 0705-1147	solution, careby further been appually in the are to be do the Treas key and G	an be incured a Treasury frawn, and sury, to the performance of the sury of th	orred without n conformity for the purpo, or are antid that the sale credit of sale credit of sale calling of the conformation	t the violation with the request of said conting the counting data. If John Trunk By: COUNTING DATA JOB ORDER	n of any on our or	f the p of the nat suff e Trea y in the therwis eg Bisl	rovision Charticient sury, 1 a Trea e une	ons of the er of the moneys to the cresury, tog neumbers this Mana	e Charter of the City City of San Diego, the to meet the obligation edit of the appropriation ether with the money ed. agement file no. LP07
he hereto San Diego sufficient of said con rom whice inticipated Not to Excellendor: Purpose:	o attoo; a moontrach til d to	tached resind I do he neys have act are act he same a come into d: John Trun Settlemen 0705-1147	solution, careby further been appually in the are to be do the Treas key and G	an be incured a Treasury frawn, and sury, to the performance of the sury of th	orred without n conformity for the purpo, or are antid that the sale credit of sale credit of sale calling of the conformation	t the violation with the request of said conting the counting data. If John Trunk By: COUNTING DATA JOB ORDER	n of any on our or	f the p of the nat suff e Trea y in the therwis eg Bisl	rovision Charticient sury, 1 a Trea e une	ons of the er of the moneys to the cresury, tog neumbers this Mana	e Charter of the City of San Diego, the to meet the obligation edit of the appropriation ether with the money ed. agement file no. LP07 AMOUNT
he hereto San Diego sufficient of said con rom whice inticipated Not to Excellendor: Purpose:	o attoo; a moontrach til d to	tached resind I do he neys have act are act he same a come into d: John Trun Settlemen 0705-1147	solution, careby further been appually in the are to be do the Treas key and G	an be incured a Treasury frawn, and sury, to the performance of the sury of th	orred without n conformity for the purpo, or are antid that the sale credit of sale credit of sale calling of the conformation	t the violation with the request of said conting the counting data. If John Trunk By: COUNTING DATA JOB ORDER	n of any on our or	f the p of the nat suff e Trea y in the therwis eg Bisl Reyes AUDITOR	rovision Charticlent sury, 1 e Trea e une	ons of the er of the moneys to the cresury, tog neumbers thisk Mana	e Charter of the City City of San Diego, the to meet the obligation edit of the appropriation ether with the money ed. agement file no. LP07 R'S DEPARTMENT

000101

RESOLUTION NUMBER R	
DATE OF FINAL PASSAGE	

A RESOLUTION AUTHORIZING PAYMENT FOR THE SETTLEMENT OF ALL CLAIMS OF JOHN TRUNKEY AND GREG BISHOP

WHEREAS, in Closed Session on November 18, 2008, the City Council, by the following vote: unanimously 8-0, authorized the payment in full and final settlement of each and every claim, along with all resulting claims and damages referenced in Claim No. LP07-0705-1147, in the amount of \$835,000.00; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Mayor or his designee is hereby authorized and empowered to pay the total sum of \$835,000.00 in full and final settlement of each and every claim against the City of San Diego, its agents and employees, resulting from Claim No. LP07-0705-1147 by John Trunkey and Greg Bishop, for property damage along with related damages and expenses which occurred on or about December 17, 2006 and thereafter.

BE IT FURTHER RESOLVED, that the City Auditor and Comptroller is hereby authorized to issue one check in the amount of \$550,000.00 in the current fiscal year following City Council and Mayoral approval of this action, and one check in the amount of \$285,000.00 in fiscal year 2010 by August 31, 2009, both made payable to BRYAN M. GARRIE, APC CLIENT TRUST ACCOUNT FBO JOHN TRUNKEY AND GREG BISHOP, in settlement of said claims, with said funds to be payable from the Water Utility Fund 41500.

000102

BE IT FURTHER RESOLVED, that this activity is not a project and is therefore exempt from the California Environmental Quality Act pursuant to Guidelines Section 15060(c) (3).

APPROVED: JAN I. GOLDSMITH, C	City Attorney
By Raymond C. Palmucci Deputy City Attorney	7 <u></u>
RCP:js 01/06/2009 Or.Dept: Risk Mgmt R-2009-703	
I hereby certify that the foregoing Resol Diego, at this meeting of	lution was passed by the Council of the City of Sa
	ELIZABETH S. MALAND City Clerk
	By Deputy City Clerk
Approved:(date)	JERRY SANDERS, Mayor
Vetoed:	
(date)	JERRY SANDERS, Mayor